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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,794	03/15/2005	Shigeyuki Oshima	29302.0047	7070

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WASHINGTON, DC 20036

EXAMINER

SANDBERG, NOLAN THOMAS

ART UNIT	PAPER NUMBER
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3782

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/527,794	Applicant(s) OSHIMA ET AL.	
	Examiner NOLAN SANDBERG	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/15/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moteki et al. (US Patent No. 6,102,571) in view of Ishii (Japanese Publication No. 07-165243).

Regarding claims 1 and 3, it is noted that Fig. 1 of Moteki et al. discloses a packaging bag (1) formed by bending a laminate film at two portions in parallel to each other such that both end portions thereof are mated to each other and the mated end portions are bonded together (6) so as to provide a tubular body having upper and lower openings, which are sealed by forming upper and lower seal portions (4, 5), respectively, wherein said two bent portions of the laminate film constitute side edge portions as boundary portions between a front surface portion and a back surface portion of a packaging bag, and a rough surface seal open portion (7) formed with

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aggregation of a plurality of fine recesses (22 in Fig. 7) formed to an outer layer constituting the outer layer so that the rough surface seal open portion is formed to the front surface and/or back surface portion of the packaging bag so as to include one of the side edge portions thereof.

Moteki et al. does not disclose wherein the rough surface seal open portion is formed within the upper seal portion. However, Fig. 1 of Ishii discloses a tear portion formed within the upper seal portion. Hence it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the bag of Moteki et al. with the tear portion of Ishii so that a portion of the seal is left when the bag is open to direct pouring of the contents.

Regarding claims 2 and 4-6, it is noted that Fig. 1 of Moteki et al. discloses wherein said mated end portions are bonded together with a predetermined width at the back surface side of the packaging bag so as to form a back seal portion (6), and an intermediate rough surface seal open portion (9) is formed with aggregation of a plurality of fine recesses formed to the outer layer constituting the laminate film and a plurality of fine through holes penetrating the outer layer so that the intermediate rough surface seal open portion is formed, in the back surface portion, to a root portion of the back seal portion facing the another side edge portion of the packaging bag. Moteki et al. does not disclose the specifics of the upper seal portion. However, Fig. 1 of Ishii discloses wherein said upper seal portion includes a first seal portion (3 near 4) formed in a width direction of the packaging bag from one side edge thereof and having a relatively deep depth in a vertical direction of the front and back surface portions and a second seal portion formed between the first seal portion and another side edge of the packaging bag in a width direction thereof and having a relatively shallow depth (above 2a), compared with the first seal portion, in a vertical direction of the front and back surface portions. Hence it would have

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been obvious to one of ordinary skill in the art at the time of the invention to modify the bag of Moteki et al. with the shape of the upper seal portion of Ishii so that a portion of the seal is left when the bag is open to direct pouring of the contents.

Regarding claim 7, it is noted that Fig. 1 of Moteki et al. discloses wherein said rough surface seal open portion (7) is formed so as to gradually protrude towards a central portion (6) in the width direction of the packaging bag from upper and lower end portions in the vertical direction of the rough surface seal open portion.

Regarding claims 8-10, it is noted that Fig. 7 of Moteki et al. discloses wherein said rough surface seal open portion (7) is provided with a portion, at which the recesses are formed coarsely in density (as per claim 8), having a relatively shallow depth (as per claim 9) and relatively small size (as per claim 10), along a peripheral edge portion of the rough surface seal open portion. The recesses are coarse (column 3, line 35), shallow and small (column 5, line 41, they must be shallow and small so as to not provide access into the bag.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dietz et al. (US Patent No. 5,984,088) discloses a bag with a rough surface facilitating opening. Mobs (US Patent No. 6,352,365 B1) discloses a bag with a tear area that is deeper than the rest of the upper seal. Ohshima (US Patent No. 4,903,841) discloses a bag with a tear area. Bunch (US Patent No. 3,608,815) discloses a bag with a rough surface facilitating opening.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NOLAN SANDBERG whose telephone number is (571)270-3537. The examiner can normally be reached on Monday to Thursday from 7:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/N. S./
Examiner, Art Unit 3782
4/21/08

/Nathan J. Newhouse/

Supervisory Patent Examiner, Art Unit 3782